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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,887	10/21/2003	Rodney George Wade	CULLE-13	2766
23599	7590	04/14/2005	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.			UPTON, CHRISTOPHER	
2200 CLARENDON BLVD.			ART UNIT	
SUITE 1400			PAPER NUMBER	
ARLINGTON, VA 22201			1724	

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,887

Applicant(s)

WADE, RODNEY GEORGE

Examiner

Christopher Upton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 should be clarified with respect to the structures claimed. For example, the claim recites that the secondary filter is located between the outlet and itself, and receives water from itself. Functional language, such as "are filtered" and "may drain" should be expressed as structure or in proper means-plus-function language. In claim 5, the structural relationship of the baffle and the other elements is unclear.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as obvious over Hutter Jr.

Hutter discloses a series of three filters in a catch basin, which may consist of screens having progressively smaller apertures (see column 4, lines 37-52), as claimed.

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While the drawings do not show the outlet of the catch basin being below the filters so that the lowest filter is able to dry out when water flow ceases, it is submitted that storm drain catch basins normally have the outlet at the bottom, so that water does not stand in the drain, and that therefore, this configuration would obviously be used in the drain of Hutter.

With respect to claims 3, 6 and 8, it is submitted that the specific sizing of the screens would have been an obvious result-effective variable for one skilled in the art, depending on the characteristics of the substances to be filtered, and that therefore the sizes fail to patentably distinguish over Hutter. With respect to claims 9-11, it is submitted that a shape would have been an obvious matter of design for one skilled in the art, and therefore fails to patentably distinguish over Hutter.

4. Claims 1, 2, 4, 5, 7, 9 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Capra.

Capra discloses a container for filtration having three layers of filtering material in progressively finer sizes and an outlet at the bottom so that the lowest filter will be able to dry out, as claimed. While the device of Capra does not show a catchment area, or a pit, it is submitted that this is intended use language obviously failing to limit the structure claimed.

5. Claims 3, 6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capra.

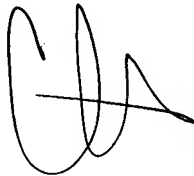
Claims 3, 6 and 8 differ from Capra in recitation of specific filter sizes. It is submitted that the specific sizing of the screens would have been an obvious result-effective variable for one skilled in the art, depending on the characteristics of the substances to be filtered, and that therefore the sizes fail to patentably distinguish over Capra. With respect to claim 10, it is submitted that a shape would have been an obvious matter of design for one skilled in the art, and therefore fails to patentably distinguish over Capra, as Capra discloses a stepped relationship of the filters.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references of interest include Schneider, Schodde, MacPherson, Fleischmann and Irwin.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 7:30-5:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a final horizontal stroke.

Christopher Upton
Primary Examiner
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